

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-34709 of 2016.
Decided on:-24.10.2016.

Darshan Singh.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Manish K. Singla, Advocate
for the petitioner.

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Section 482 Cr.P.C. is for setting aside the order dated 29.10.2015 passed by learned Sub-Divisional Judicial Magistrate, Khanna (Annexure P-2) whereby complaint qua respondent No.2 Amritpal Kaur (respondent No.3 herein) was dismissed, whereas respondent No.1 Tarlochan Singh (respondent No.2 herein) was ordered to be summoned under Section 325 IPC.

Challenge has also been laid to the judgment dated 21.7.2016 passed by learned Additional Sessions Judge, Ludhiana vide which revision petition filed by the petitioner-complainant against the aforesaid order of learned Magistrate, was dismissed.

It is the case of the petitioner-complainant that on 07.11.2013 at about 10.30 AM & 11.00 AM, the petitioner-complainant along with his wife

Sukhwinder Kaur were hanging Pallies in their cattle house due to winter. In the meanwhile, respondent-accused Tarlochan Singh along with his wife entered their cattle house. Tarlochan Singh was armed with Danda and he started abusing the complainant. A civil suit was already pending between the parties. Respondent Tarlochan Singh asked the complainant as to why he was hanging Pallies when the case was pending between them. Whereas the wife of Tarlochan Singh asked her husband Tarlochan Singh to teach a lesson to the complainant for hanging Pallies. In this manner, respondent-accused Tarlochan Singh gave a Danda blow to the complainant. On this, he raised an alarm due to which wife of the complainant came on the spot. Accused Tarlochan Singh and his wife then fled away from the spot and the petitioner-complainant was hospitalized.

An FIR No.245 dated 12.11.2013 under Sections 323 and 325 read with Section 34 IPC was also registered at Police Station City Khanna. However, the police had submitted a cancellation report in the said FIR and, therefore, the petitioner-complainant has filed the present complaint.

In his preliminary evidence, the petitioner-complainant himself stepped into the witness box as CW2 and had examined Pritam Singh as CW1, HC Harjinder Singh as CW3, Dr. Ranjeev Kumar Bains as CW4 and Sukhwinder Kaur i.e. wife of the complainant as CW5.

Learned counsel for the petitioner has argued that learned Magistrate has summoned accused Tarlochan Singh under Section 325 IPC, but dismissed the complaint against accused Amritpal Kaur despite the fact

that she was present at the scene of occurrence and had trespassed the property owned by the petitioner-complainant. In this manner, learned Magistrate neither perused the contents of complaint nor the evidence led by the complainant at the time of passing of impugned order (Annexure P-2).

Learned counsel for the petitioner has further argued that it is the case of the petitioner that the private respondents had entered in his cattle house and, therefore, the offence of criminal trespass is complete against them and for this act, both the respondents are liable to be summoned to face trial. He has further contended that at the time of summoning the accused, the trial Court is just required to see the allegations and not the evidence.

I have heard learned counsel for the petitioner.

Learned Magistrate vide impugned order dated 29.10.2015 has categorically mentioned that there is no specific attribution against the respondent-accused Amritpal Kaur. Moreover, it is not a matter of dispute that a civil suit is already pending between the parties and for such like cases, it can safely be concluded that there is normally a tendency to involve the member of other side. For the same set of allegations, the police had conducted investigation and a case was also registered. However, the police did not find any truth in the allegations and a cancellation report was prepared. Even otherwise, during the pendency of revision petition before learned Additional Sessions Judge, Ludhiana, the petitioner had failed to show his exclusive ownership or possession over the suit property so as to establish the commission of offence under Section 452 IPC.

Considering the fact that the petitioner has not been able to show his exclusive ownership or possession on the property and the injury caused by respondent-accused Amritpal Kaur, this Court does not find any illegality in the impugned order dated 29.10.2015 passed by learned Magistrate and the impugned judgment dated 21.7.2016 passed by learned revisional Court which may warrant interference by invoking jurisdiction of this Court under Section 482 Cr.P.C.

The present petition is, accordingly, dismissed.

October 24, 2016

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No